

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Harley Dean Meyer,

Plaintiff,

v.

Virginia Ekola, Attorney, in her official capacity as an officer of Hennepin County District Court; Allan Lindsay; Diane Lindsay; Jean Peterson, in her official capacity; J. Does 4-8, in their official capacities (Hennepin County); J. Doe 9 and 21, in their official capacities (State of Minnesota); J. Doe 31, in his or her official capacity (State auditor); J. Doe 32, in his or her official capacity (Minn. DHS auditor); J. Doe 34, in his or her official capacity (State of Minnesota - executive policy maker); J. Doe 35 (Non-Government Agency); J. Doe 36 (Unknown Company); J. Doe 38, in his or her official capacity (State of Minnesota); J. Doe 39, in his or her official capacity (Non-Government Agency); J. Doe 47, in his or her official capacity (State of Minnesota?/Hennepin County?); J. Does 53-82; and J. Does 83-91, in their official capacities,

Defendants.

Case No. 15-cv-2564 (SRN/HB)

**REPORT
AND RECOMMENDATION**

HILDY BOWBEER, United States Magistrate Judge

Plaintiff Harley Dean Meyer commenced this action on May 27, 2015. (Compl. [Doc. No. 1].) He filed his First Amended Complaint, which is the operative pleading, more than a year ago, on December 1, 2015. (First Am. Compl. [Doc. No. 136].) On June

30, 2016, this Court issued an Order describing several service-of-process deficiencies, including no proof of service on Defendant Jean Peterson. (Order at 5-7 [Doc. No. 294].) The Court incorporates by reference that discussion here. The Court ordered Plaintiff to file proof of service of the summons and complaint on Peterson by August 1, 2016. Plaintiff did not comply.

On November 21, 2016, Plaintiff filed a motion asking for an extension of time to serve Peterson. (Pl.'s Mot. Extension [Doc. No. 418].) Because he did not show good cause for his failure to effect timely service, as required by Federal Rule of Civil Procedure 4(m), the Court denied the motion. (Order, Dec. 15, 2016 [Doc. No. 434].) The Court incorporates by reference the substance of that Order here.

It has been more than a year since the original complaint and the First Amended Complaint were filed. Plaintiff still has not served Peterson with a copy of the summons and complaint, despite the Court's reminder of his obligation to do so more than five months ago. He has not shown good cause for his failure to serve Peterson. Now, in accordance with the June 30 Order and Federal Rule of Civil Procedure 4(m), the Court recommends that Plaintiff's claims against Peterson be dismissed without prejudice.

Accordingly, **IT IS HEREBY RECOMMENDED** that all claims against Defendant Jean Peterson be **DISMISSED WITHOUT PREJUDICE**.

Dated: December 19, 2016

s/ Hildy Bowbeer
HILDY BOWBEER
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).

Under Advisement Date: This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.